

[REDACTED]
[REDACTED]
[REDACTED]
14 APR 1982

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code.

The information submitted discloses that you were incorporated [REDACTED], to enter into any lawful business activity in which corporations organized under [REDACTED] at seq., may engage.

Your By-Laws provide that you are organized for the purpose of promoting sports and recreation and particularly the recreation of horsemanship, horsebackriding, and all phases of the equestrian field on a nonprofit basis. It appears that your membership is open to anyone over 15 years of age. Annual dues are set at \$ [REDACTED] per member.

Information submitted in support of your application shows that, in addition to regular member meetings and rides, you have annually assisted the local fire department in the sale of gumbo and you sell raffle tickets to the public during the parish junior livestock show. Financial information made available indicates that your gross receipts may be summarized as follows:

	<u>Total</u>	<u>Member</u>	<u>Nonmember</u>
Dues (\$ [REDACTED]) and Assessments (\$ [REDACTED])	\$ [REDACTED]	\$ [REDACTED]	
Sale of gumbo (Club's 1/2)	[REDACTED]		\$ [REDACTED]
Livestock show raffle	[REDACTED]		[REDACTED]
	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

Although this financial information does not conform to your regular accounting cycle, it is representative of your actual sources and amounts of receipts.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(7) Clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder."

Section 1.501(c)(7)-1 of the regulations provides, in part, as follows:

"(a) The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities."

"(b) A club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes. However, an incidental sale of property will not deprive a club of its exemption."

Section 501(c)(7) of the Code has been amended by Public Law 94-568 to permit clubs to receive up to 35% of their gross receipts, including investment income, from sources outside of their membership without losing tax-exempt status. No more than 15% of gross receipts, however, can be from the general public's use of club facilities and services.

According to the Senate report on Public Law 94-568, gross receipts are defined for this purpose as those receipts from normal and usual activities of the club (that is, those activities they have traditionally conducted) including charges, admissions, membership fees, dues, assessments, investment income (such as dividends, rents, and similar receipts), and normal recurring capital gains on investments, but excluding initiation fees and capital contributions.

The regulations issued under section 511 of the Code provide that exempt function income means gross income from dues, fees, charges, or similar amounts paid by members of the organization as consideration for providing goods, facilities, or services to such members, their dependents, or guests in furtherance of the purposes constituting the basis of the exemption of the organization.

Revenue Ruling 58-589, 1958-2 Cumulative Bulletin 266, holds that to qualify for income tax exemption, a social club should not advertise its facilities for non-member patronage since this would be prima facie evidence that it was engaging in business. Likewise a social club should not engage in any type of...activity...which is designed to increase or which could result in an increase in net earnings inuring to the benefit of any individual. Net earnings may inure to members in such forms as an increase in services offered by the club without a corresponding increase in member dues or other fees paid for club support. Revenue Ruling 65-63, 1965-1 Cumulative Bulletin 240, exemplifies an organization that permits the general public to attend the organization's activities on a recurring basis upon payment of an admission fee. It holds that public patronage or participation in club activities is permissible if incidental to and in furtherance of the club purposes, and if the net income therefrom does not inure to its members. However, this is not the case where the activities of the club, in permitting public patronage of its facilities, are of such magnitude and recurrence as to constitute engaging in business. Revenue Ruling 66-149, 1966-1 Cumulative Bulletin 146, holds that the statute contemplates that clubs falling within the ambit of section 501(c)(7) of the Code are designed primarily to provide for the pleasure and recreation of members. These activities may be supported by funds obtained from members such as dues, assessments, and payment for the use of club facilities. However, to the extent that income is derived from non-member sources, it inures to the benefit of the members. If such activities are other than incidental, trivial, or nonrecurrent, it is considered that they are intended to produce income and are reflective of a purpose inconsistent with exemption under section 501(c)(7).

Similarly, where a club engages in income producing transactions which are not a part of the club purposes, exemption will not be denied because of incidental, trivial or nonrecurrent activities such as sales of property no longer adapted to club purposes. But in order to retain exemption a club must not enter into outside activities with the purpose of deriving a profit. (Santee Club v. White, 87 Fed. (2d) 5.) If such income producing activities are other than incidental, trivial or nonrecurrent, it will be considered that they are designed to produce income and will defeat exemption. (West Side Tennis Club v. Commissioner, 111 Fed (2d) 6, Certiorari denied, 311 U.S. 674

[REDACTED]

You have received gross income from nonmember sources in amounts which cannot be considered to be incidental, trivial, or nonrecurrent. Accordingly, we conclude that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(7) of the Internal Revenue Code, and are therefore required to file income tax returns on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely yours,

[REDACTED]
Acting District Director

Enclosures:
Publication 892
Form 6018
Envelope